

Message Text

PAGE 01 STATE 005314

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E.O. 11652: N/A

TAGS: EFIN, IDB

SUBJECT: IDB: U.S. PROPOSED AMENDMENTS TO CHARTER AND
GENERAL RULES

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PAGE 02 STATE 005314

EF: STATE 267648

1. SUMMARY - WITHIN CONTEXT OF IDB NON-REGIONAL COUNTRY
(NRC) MEMBERSHIP NEGOTIATIONS, U.S. INTRODUCED FIVE

PROPOSALS FOR AMENDMENTS TO IDB CHARTER AND RULES FOR NRC ENTRY. PROPOSED AMENDMENTS AND RATIONALE CIRCULATED TO BOARD OF EXECUTIVE DIRECTORS. U.S. REPRESENTATIVE DISCUSSED PROPOSALS IN IDB BOARD DEC. 9 AND WITH NRC REPRESENTATIVES AND SOME LA IDB MEMBERS AT TIME OF SIGNING DECLARATION MADRID DEC. 17. MOST IDB EXECUTIVE DIRECTORS AND ALTERNATES NOW IN HOME COUNTRIES ON CONSULTATIONS AND WILL RETURN TO WASHINGTON BY MID JANUARY. IN ANTICIPATION BOARD CONSIDERATION OF U.S. PROPOSALS BEGINNING JANUARY 21 REQUEST EMBASSIES CONTACT OFFICIALS RESPONSIBLE FOR GIVING INSTRUCTIONS TO IDB EXECUTIVE DIRECTORS AND ALTERNATES TO URGE SUPPORT FOR U.S. PROPOSALS. EMBASSIES SHOULD DRAW ON FOLLOWING TO OUTLINE EACH OF FIVE U.S. PROPOSALS. WOULD APPRECIATE CABLE REPORT ON HOST GOVERNMENTS POSITION. END SUMMARY.

2. PROCUREMENT -- DECISION TO PERMIT NRC MEMBERSHIP RAISES

QUESTIONS ON TYING IDB-FINANCED PROCUREMENT. FUND FOR SPECIAL OPERATIONS (FSO) HAS BEEN TIED TO PROCUREMENT IN MEMBER COUNTRIES ONLY. ORDINARY CAPITAL (OC) PROCUREMENT PRESENTLY AVAILABLE TO ALL COUNTRIES PROVIDING FINANCING TO BANK INCLUDING NON-MEMBERS PROVIDING FUNDS THROUGH BOND PURCHASES AND LOANS. IN CONTEXT OF NRC MEMBERSHIP EXPANSION, U.S. HAS COMMITTED ITSELF IN LETTER TO IDB PRESIDENT NOT TO RESTRICT PROCUREMENT IN ANY BANK MEMBER COUNTRIES WITH FUNDS DERIVED FROM U.S. SUBSCRIPTIONS TO OC. U.S. IS ON RECORD IN LETTER AS EXPECTING THAT FSO CONTRIBUTIONS SUBSEQUENT TO FORTHCOMING 1976-78 REPLENISHMENT WILL BE NEGOTIATED MULTILATERALLY WITH EACH MEMBER CONTRIBUTING FAIR SHARE AND THEREFORE ON UNTIED BASIS. HOWEVER, POSSIBILITY EXISTS THAT ONE OR MORE DONOR MEMBERS MIGHT REFUSE TO PARTICIPATE IN REPLENISHMENTS AND PRESENT CHARTER LANGUAGE WOULD PERMIT BANK MEMBERS TO CONTINUE TO ENJOY PROCUREMENT RIGHTS. U.S. WANTS TO ASSURE CONTINUED CONTRIBUTIONS BY ALL DONOR MEMBERS AND BELIEVES NEW PROVISION IN CHARTER THAT WOULD PERMIT FUTURE TYING IS LIMITED OFFICIAL USE
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PAGE 03 STATE 005314

APPROPRIATE MEANS. SPECIFICALLY U.S. PROPOSED AMENDMENT WOULD CLARIFY IDB CHARTER ART. III TO PERMIT BANK OR

INDIVIDUAL MEMBER TO LIMIT USE OF FUNDS CONTRIBUTED TO GIVEN REPLENISHMENT TO PURCHASE GOODS AND SERVICES PRODUCED IN THOSE MEMBER COUNTRIES PARTICIPATING IN REPLENISHMENT. PROVISION WOULD NOT BE MANDATORY BUT WOULD PERMIT RESTRICTIONS BY BANK AGAINST MEMBERS NOT PARTICIPATING IN

REPLENISHMENT IN ACCORDANCE WITH TERMS AND CONDITIONS ESTABLISHED BY BOARD OF GOVERNORS. FUNDS CONTRIBUTED BY AN INDIVIDUAL MEMBER COULD ALSO BE RESTRICTED IN ACCORDANCE

WITH TERMS AND CONDITIONS ESTABLISHED BY GOVERNORS. POSTS SHOULD POINT OUT OBVIOUS ADVANTAGES TO BORROWERS OF U.S. PROPOSAL SINCE IT AIMS AT MAXIMIZING FUTURE FLOW OF RESOURCES TO IDB BY CREATING INCENTIVE FOR DONOR COUNTRIES TO PARTICIPATE IN FUTURE REPLENISHMENTS.

3. MAINTENANCE OF VALUE (MOV) -- NEW PROVISION WOULD STATE THAT IN ANY FUTURE INCREASES IN FSO, DIFFERENT MOV STANDARDS THAN THOSE IN PRESENT CHARTER PROVISIONS MAY APPLY TO RESOURCES CONTRIBUTED TO SUCH INCREASES. THIS AMENDMENT WOULD HAVE EFFECT OF SHIFTING ISSUE IN FUTURE TO REPLENISHMENT NEGOTIATIONS IN LIEU OF FORCING CHARTER REVISION, WHICH REQUIRES LEGISLATIVE ACTION. PRIMARY TALKING POINT IS WE NEED TO AVOID COMPLICATIONS IN WORLD OF FLOATING EXCHANGE RA-ES AND TO PERMIT LAS TO NEGOTIATE AT LEAST SOME LIMITS TO THEIR MOV LIABILITIES. CURRENTLY EACH MEMBER HAS OBLIGATION TO MAINTAIN VALUE OF ITS CURRENCY HELD BY BANK BOTH IN OC AND FSO. FYI -- MOV HAS

BEEN ONEROUS FOR U.S. AND ADVERSE CONGRESSIONAL REACTION TO NEED FOR SUPPLEMENTARY APPROPRIATIONS (\$823 MILLION FOR IDB IN FY 1972 AND FY 1974, OUT OF TOTAL \$3.8 BILLION FOR ALL IFIS) LED TO REMOVAL MOV FOR IDA'S 4TH REPLENISHMENT AND ADB-SPECIAL FUND ADJUSTMENT AND HAS CREATED PRESSURE FOR SIMILAR ADJUSTMENT IN IDB. END FYI. MOV IS IMPORTANT IN OC IN ORDER TO PRESERVE VOTING RATIOS AND FACILITATE BORROWING OPERATIONS BUT THESE FACTORS NOT RELEVANT IN FSO. NO SERIOUS OBJECTIONS FROM PROSPECTIVE NON-REGIONAL MEMBERS ON THIS PROPOSAL ANTICIPATED.

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PAGE 04 STATE 005314

4. TRANSFER TO FSO -- THIRD U.S. PROPOSAL IS AMENDMENT TO CHARTER ARTICLE VII TO PERMIT TRANSFER OF OC AND NEW INTER-REGIONAL CAPITAL NET PROFITS TO FSO. TRANSFER WOULD BE ANALOGOUS TO IBRD CONTRIBUTIONS TO IDA AND ADB PROVISION FOR TRANSFER TO SPECIAL FUNDS WINDOW. OBJECTIVE IS TO ASSURE CHANNELING OF RESOURCES TO POORER BANK MEMBERS AND THEREBY HELP GAIN SUPPORT FOR ADDITIONAL CONCESSIONARY CONTRIBUTIONS FROM DONOR MEMBERS INCLUDING NEW NRC MEMBERS. PROPOSAL APPLIES ONLY TO FUTURE NET PROFITS AND NOT TO EXISTING RESERVES. ANY TRANSFER WOULD REQUIRE VOTE OF TWO-THIRDS GOVERNORS HOLDING THREE-FOURTHS VOTING POWER FOLLOWING REPORT AND RECOMMENDATION OF BOARD OF EXECUTIVE DIRECTORS TAKING INTO CONSIDERATION ADEQUACY OC CAPITAL RESOURCES, FSO NEEDS, AND POSSIBLE EFFECTS ON IDB'S ABILITY TO BORROW. NRC REPORTEDLY NOT OPPOSED TO PROPOSAL. POSTS SHOULD POINT OUT ADVANTAGES TO WEALTHIER COUNTRIES IN THAT TRANSFER OF NET PROFITS IS INDIRECT WAY THEY CAN PROVIDE ASSISTANCE TO POORER MEMBERS. ADVANTAGE TO POORER IDB MEMBERS IS IMPLIED INCREASE IN FSO RESOURCES AVAILABLE FOR LENDING. FYI-- U.S. IS CONCERNED WITH PRESSURES WITH-

IN IDB TO EXPAND STAFF, RAISE SALARY LEVELS, AND INCREASE GRANT TECHNICAL ASSISTANCE ACTIVITIES AND THEREFORE, SEEKS TO ESTABLISH TRADE-OFF BETWEEN THESE EXPENDITURES AND PROVIDING FSO FUNDS. END FYI.

5. INTER-REGIONAL CAPITAL RULES -- NRC MEMBERSHIP IN IDB WILL INVOLVE CREATION NEW INTER-REGIONAL CAPITAL STOCK. RATIONALE FOR SEPARATE CAPITAL WINDOW IS DESIRE TO PERMIT IDB BORROWING IN CAPITAL MARKETS WITHOUT RESTRICTIONS THAT CURRENTLY APPLY TO BORROWING AGAINST OC. EXISTING OC BOND COVENANT LIMITS BORROWING TO AMOUNT CALLABLE U.S. DOLLARS AVAILABLE ON DEMAND THUS PRECLUDING BORROWING AGAINST OTHER CONVERTIBLE CURRENCIES (SUCH AS CANADIAN) AND REQUIRING CONGRESSIONAL APPROPRIATION AS WELL AS AUTHORIZATION U.S. CALLABLE CAPITAL. BOND COVENANT FOR NEW INTER-REGIONAL CAPITAL WOULD NOT CONTAIN SAME RESTRICTIONS AND THIS WOULD BE ADVANTAGEOUS IN TWO RESPECTS. FIRST, U.S. SUBSCRIPTIONS TO INTER-REGIONAL

CAPITAL WOULD ENCOURAGE CANADIAN SUBSCRIPTIONS TO SAME LIMITED OFFICIAL USE
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PAGE 05 STATE 005314

CAPITAL STOCK SO AS TO REMEDY CURRENT IDB INABILITY TO BORROW AGAINST CANADIAN DOLLAR SUBSCRIPTIONS TO OC.

SECOND, U.S. CALLABLE SUBSCRIPTIONS WOULD NO LONGER REQUIRE APPROPRIATION WHICH WOULD SIMPLIFY U.S. LEGISLATIVE APPROVAL U.S. CONTRIBUTIONS TO IDB AND THUS PERHAPS FACILITATE LARGER CONTRIBUTION TO OC.

6. AS NOW DRAFTED, NEW RULES AND AMENDED CHARTER WOULD CLEARLY PERMIT U.S. SUBSCRIPTION TO NEW INTER-REGIONAL CAPITAL. NRCS HAVE SEEN THIS CAPITAL AS THEIR PRESERVE AND HAVE INSERTED IN PROPOSED RULES A PROVISION THAT THIS CAPITAL COULD BE INCREASED ONLY WITH SPECIAL QUORUM OF TWO-THIRDS OF NRCS. MOREOVER, PRESENT DRAFTING WOULD REQUIRE EACH NRC INDIVIDUALLY TO WAIVE ITS RIGHTS TO SUCH STOCK THE U.S. MIGHT TAKE UP EVEN THOUGH OTHER PROVISIONS OF RULES WOULD PREVENT NRC TAKING UP SUCH STOCK. WE BELIEVE SUCH NRC INFLUENCE OVER STOCK WHICH MIGHT BE ADVANTAGEOUS FOR U.S. TO PURCHASE IS INAPPROPRIATE SINCE NRCS WILL HAVE NO MORE THAN EIGHT PERCENT OF BANK'S STOCK. IMPLICIT VETO BY NRC COULD JEOPARDIZE CONGRESSIONAL APPROVAL U.S. SUBSCRIPTION TO INTER-REGIONAL CAPITAL.

7. U.S. PROPOSING TWO CHANGES REGARDING INTER-REGIONAL CAPITAL. FIRST WOULD AMEND SECTION 7 GENERAL RULES FOR NRC ENTRY TO PROVIDE FOR AUTOMATIC WAIVER MEMBERS' RIGHTS TO SUBSCRIBE TO CAPITAL SHARES WHEN EXERCISE WOULD CARRY NRC SHARE BEYOND 8 PERCENT IDB VOTING POWER. SECOND CHANGE

WOULD LEAVE SPECIAL QUORUM INTACT BUT FACILITATE REGIONAL
MEMBER SUBSCRIPTIONS TO INTER-REGIONAL CAPITAL BY AMENDING
CHARTER ARTICLE II TO PERMIT MEMBERS WITH RIGHT TO SUB-
SCRIBE TO OC TO WAIVE THAT RIGHT AND TO SUBSCRIBE INSTEAD
TO EQUIVALENT NUMBER OF SHARES OF INTER-REGIONAL CAPITAL.
PROPOSAL WOULD BE COMPLETELY NON-DISCRIMINATORY BY
GIVING NRC EQUIVALENT RIGHTS TO WAIVE SUBSCRIPTIONS
TO INTER-REGIONAL CAPITAL AND SUBSCRIBE INSTEAD TO OC. IN
EXPLAINING DESIRABILITY U.S. PROPOSAL POSTS SHOULD STRESS
ADVANTAGES FOR BORROWERS THAT WOULD ACCRUE FROM ENHANCED
IDB BORROWING ABILITY BASED ON REGIONAL, INCLUDING U.S.,
SUBSCRIPTIONS TO INTER-REGIONAL CAPITAL. THIS SUPERSEDES
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PAGE 06 STATE 005314

PREVIOUS VERSIONS OF PROPOSAL.

8. IDB IMMUNITY FROM SUIT -- FINAL U.S. PROPOSAL IS
OPPOSITION TO IDB MANAGEMENT PROPOSAL TO AMEND CHARTER
ARTICLE XI SO AS TO EXPAND BANK'S IMMUNITY FROM LEGAL SUIT.
MANAGEMENT'S INITIATIVE IS NOT REALLY DIRECTLY RELATED
TO NRC EXERCISE SINCE BANK'S OPERATIONS WILL CONTINUE

TO BE CONCENTRATED MAINLY AT U.S. HEADQUARTERS AND IN
BORROWING COUNTRIES. MANAGEMENT'S PROPOSED AMENDMENT
WOULD MAKE BANK IMMUNE FROM SUIT EXCEPT IN CASES RELATED
TO ITS POWERS TO BORROW, GUARANTEE OBLIGATIONS, AND DEAL
IN FINANCIAL SECURITIES. POSTS SHOULD STRESS THAT HOST
COUNTRY LEGISLATURES AS WELL AS USG PROBABLY MIGHT WELL
OPPOSE SUCH INCREASED IMMUNITY AS INFRINGEMENT ON RIGHT
OF JUDICIAL REVIEW. WE UNDERSTAND IDB IS PARTICULARLY
INTERESTED IN IMMUNITY FROM LA LABOR LAWS AS THEY AFFECT
LOCAL EMPLOYEES. KISSINGER

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